

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

CP02-049. Conditional Use Permit to allow the construction of a 3,784 square foot fast food restaurant with drive through use on an 11.6 gross acre site at the northeast corner of Almaden Expressway and Chynoweth Avenue (Almaden Properties, LLC, c/o Joshua Kwan/McDonald's Corporation, c/o Leslie Mitchell, Owner/Developer).

Council District: 9

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **March 4, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **February 13, 2003** and ends on **March 4, 2003**.

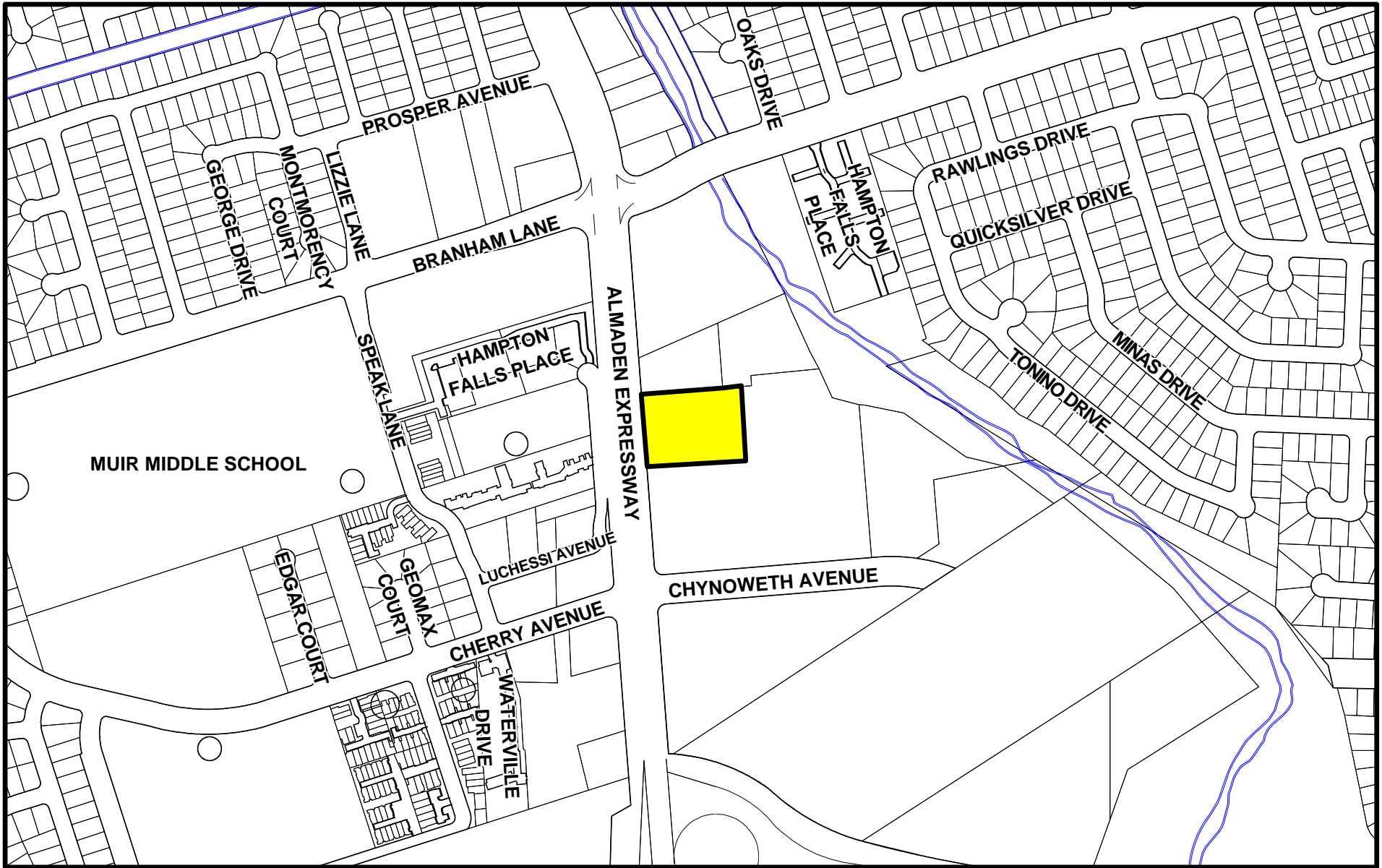
A public hearing on the project described above is tentatively scheduled for **March 12, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday, except from December 24, 2002 through January 1, 2003, at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Pearl Branch Library at 4270 Pearl Avenue, San Jose, CA 95136 and online at [www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm](http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm). Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Mike Enderby** at (408) 277-4576.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: February 13, 2003

\_\_\_\_\_  
Deputy

CP02-049 MNDPN:TE



Scale: 1"=500'

**File No: CP02-049**

**District: 09**

**Quad No: 114/128**

## **MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** McDonalds at Almaden Safeway Center

**PROJECT FILE NUMBER:** CP02-049

**PROJECT DESCRIPTION:** Conditional Use Permit to allow the construction of a 3,784 square foot fast food restaurant with drive through use on an 11.6 gross acre site in the CG-Commercial General Zoning District.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Northeast corner of Almaden Expressway and Chynoweth Avenue APN 458-17-016

**COUNCIL DISTRICT:** 9

**NAME OF APPLICANT:** Peter Ko, on behalf of Joshua Kwan, Almaden Properties LLC and Leslie Mitchell, McDonald's Corporation

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:** Peter Ko, AIA, Ko Architects, Inc. 900 High Street Suite 1 Palo Alto, CA 94301 (650) 853-1908

## **FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

## **MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

### **AIR QUALITY**

- Prudent precautions will be taken to minimize short-term air quality impacts during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site as required by the BAAQMD list of feasible construction dust control measures.

### **ARCHAEOLOGY**

Archaeology. Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

### **GEOLOGY AND SOILS**

A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed, and approved by the Project Engineer and/or City Geologist prior to issuance of a grading permit or Public Works Clearance. A design-level geotechnical investigation is required at the building permit stage and will include specific foundation design standards for the structure. The project will be designed and constructed in accordance with the Uniform Building Code guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.

### **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **March 4, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Circulated on: February 13, 2003

\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

## PUBLIC HEARING NOTICE

The Planning Commission of the City of San Jose will hold a public hearing on **Wednesday, March 12, 2003.**

This public hearing will be held in accordance with Title 20 of the San Jose Municipal Code.

The public hearing is to be in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California, at **6:00 p.m.** or as soon thereafter as this item can be heard. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.

The decision of the Planning Commission may be appealed in accordance with the requirements of the San Jose Municipal Code. Instructions for filing an appeal are available from the Department of Planning, Building and Code Enforcement.

The project being considered is:

**CP02-049. Conditional Use Permit to allow construction of a 3,784 square foot drive-through McDonalds restaurant on a 11.6 gross acre site in the CG General Commercial Zoning District, located at/on the east side of Almaden Expressway 500' northerly of Chynoweth Avenue (4950 ALMADEN EX) (ALMADEN PROPERTIES, LLC., Owner; McDonalds Corporation Rick Richoco, Developer). Council District 9. CEQA: Mitigated Negative Declaration.**

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San Jose, CA 95110  
(408) 277-4576  
[www.ci.san-jose.ca.us/planning/sjplan/](http://www.ci.san-jose.ca.us/planning/sjplan/)

A staff report with recommendations will be available for your review during the week of the Public Hearing at the Department of Planning, Building and Code Enforcement.

To arrange an accommodation under the Americans With Disabilities Act to participate in this public meeting, please call (408) 277-4576 (VOICE) at least 48 hours before the meeting.

Comments and questions are welcome and should be referred to the Project Manager, **Dipa Chundur**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Linda LaCount at the above telephone number the week of the public hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

Mike Enderby, Senior Planner  
Dated: February 12, 2003

Noticing Radius: 500 ft